

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.41, the Iowa Finance Authority proposes to amend Chapter 41, “Shelter Assistance Fund,” Iowa Administrative Code.

The purpose of these amendments is to clarify the rules and update definitions.

The Authority does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on June 3, 2014. Comments may be addressed to Amber Lewis, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Amber Lewis at (515)725-4901 or e-mailed to amber.lewis@iowa.gov.

The Authority will hold a public hearing on June 3, 2014, to receive public comments on these amendments. The public hearing will be held from 10 a.m. until 12 noon at the Authority’s offices located at 2015 Grand Avenue, Des Moines, Iowa.

The Authority anticipates that it may make changes to the proposed amendments based on comments received from the public.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 16.41.

The following amendments are proposed.

ITEM 1. Amend rule 265—41.1(16) as follows:

265—41.1(16) Purpose. The shelter assistance fund is created for the ~~purpose~~ purposes of ~~providing financial assistance for the~~ rehabilitation, expansion, or costs of operations of group home shelters for the homeless and domestic violence shelters, evaluation of services for the homeless, and match moneys for federal funds for the homeless management information system.

ITEM 2. Adopt the following new definition of “Program participant” in rule **265—41.2(16)**:

“*Program participant*” means any person or family who is homeless or at risk of becoming homeless and who seeks assistance from a recipient and is provided assistance utilizing SAF funds.

ITEM 3. Rescind the definitions of “Emergency shelter,” “Homeless prevention,” “Operations,” “Subrecipient” and “Transitional housing” in rule **265—41.2(16)**.

ITEM 4. Amend the following definitions in rule **265—41.2(16)**:

“*Applicant*” means an eligible provider of eligible homeless services which is applying for SAF program funds.

“*ESG program*” or “*ESGP*” means the Emergency Solutions Grant Program created pursuant to Title 42 of the U.S. Code (42 U.S.C. Section 11375) as well as parts of Title 24 of the Code of Federal Regulations (24 CFR Part 576).

“*Homeless shelter*” means a facility ~~providing which provides temporary housing and services~~ shelter with overnight sleeping accommodations for homeless persons and which does not require occupants to sign leases or occupancy agreements.

“*Private, nonprofit Nonprofit organization*” means ~~a secular or religious~~ an organization described in Section 501(c) of the Internal Revenue Code which:

1. ~~Is exempt from taxation under Subtitle A of the Internal Revenue Code, No part of the net earnings of which inure to the benefit of any member, founder, contributor, or individual;~~
2. ~~Has That has an accounting system and a voluntary board;~~
3. ~~Practices nondiscrimination in the provision of services to clients, and That has a functioning accounting system or has designated a fiscal agent that will maintain a functioning accounting system for the organization;~~
4. ~~That practices nondiscrimination in the provision of assistance; and~~
4. 5. ~~Has That has registered with the state of Iowa as a nonprofit corporation.~~

~~“Recipient” means any private, nonprofit organization or city or county government to which IFA distributes shelter assistance fund program funds.~~

~~“SAF” means shelter assistance fund created in 2010 Iowa Acts, Senate File 2088, section 265 according to Iowa Code section 16.41.~~

~~“Value of the building” means the monetary value assigned to a building by an independent real estate appraiser or as otherwise reasonably established by the recipient or subrecipient.~~

ITEM 5. Amend rule 265—41.3(16) as follows:

265—41.3(16) Eligible applicants. ~~City governments, county governments, local public housing authorities, instrumentalities of government, and private, nonprofit organizations are eligible applicants under the SAF program. City or county governments may apply on behalf of a nonprofit service provider within their jurisdictions when the nonprofit service provider serves homeless and near-homeless clients by providing overnight shelter, meals, clothing, transportation, counseling, child care, legal services, medical services, transitional housing services, and other related services for homeless individuals and families.~~

ITEM 6. Amend rule 265—41.4(16) as follows:

265—41.4(16) Eligible activities. ~~Activities assisted by the SAF~~ Eligible activities may include the following, where the activities are necessary to assist program participants:

1. ~~Rehabilitation, renovation, or expansion of buildings for use in the provision of providing services for the homeless.~~
2. ~~Provision of normal Normal operating expenses for programs providing services to homeless individuals or families, including staff salaries, maintenance, insurance, utilities, furnishings, provision of essential services, provision of homeless prevention activities, administrative activities, and all other documented normal operating expenses. homeless and domestic violence shelters, including staff salaries, maintenance (including minor or routine repairs), rent, security, fuel, equipment, insurance, utilities, food, furnishings, and supplies necessary for the operation of the shelter. Where no appropriate shelter is available for a homeless family or individual, eligible costs may also include a hotel or motel voucher for that family or individual. Eligible costs may also include the costs of third-party agencies’ providing food either to one or more shelters or directly to program participants.~~
3. Essential services for individuals and families in homeless and domestic violence shelters, including case management, child care, education services, employment assistance and job training, outpatient health services (to the extent that such health services are otherwise unavailable), legal services, life skills training, mental health services (to the extent that such mental health services are otherwise unavailable), substance abuse treatment services (to the extent that such substance abuse treatment is otherwise unavailable), and transportation (transportation that is necessary to provide services).
4. Evaluation of services for the homeless, including the implementation of the HMIS.

ITEM 7. Amend rule 265—41.5(16) as follows:

265—41.5(16) Ineligible activities. As a general rule, any activity that is not authorized under the provisions of P.L. 100-628 rule 265—41.4(16) is ineligible to be carried out with SAF program funds. The following are items specifically listed as ineligible in 24 CFR Part 576.

- ~~1. Acquisition or new construction of an emergency shelter for the homeless;~~
- ~~2. Rehabilitation administration, such as preparation of work specifications, loan processing, or inspections;~~
- ~~3. Renovation, rehabilitation, or conversion of buildings owned by primarily religious organizations or entities unless the activity complies with all requirements as outlined in 24 CFR Part 576.23(a) and (b).~~

ITEM 8. Amend rule 265—41.6(16) as follows:

265—41.6(16) Application procedures. IFA ~~may shall~~ issue requests for ~~proposals from eligible applicants as often as the state expects funding from HUD for the ESG program applications on an annual basis, as long as funds are available.~~ Requests for ~~proposals applications~~ may combine the ESG program with the SAF program. ~~The proposals must applications shall~~ be submitted on the forms or on-line system prescribed by IFA and ~~must, at a minimum, include the amount of funds requested, a description of the need for the funds, documentation of other available funding sources, the source of required local match for the ESG program, and the estimated number of persons to be served by the applicant.~~ Maximum Application requirements, priorities, and maximum and minimum grant awards will be established by IFA for each competition.

ITEM 9. Amend rule 265—41.7(16) as follows:

265—41.7(16) Application review process. ~~The application review process will be a joint process that combines the SAF program with the ESG program. The following procedures will be used in the review of applications for most purposes. IFA reserves the right to select an alternate application review process for SAF program funds only.~~

41.7(1) Review; threshold criteria; eligible activities.

a. Review of applications. Applications will be reviewed by a panel appointed by IFA. ~~Applications will be reviewed based on priorities established during each competition round, in accordance with the state of Iowa consolidated plan for housing and community development. Applicant experience and capacity, as well as past performance, are top priorities. Other review~~ Review criteria include, but are not limited to, program design, applicant experience and capacity, community partnerships and need, program accessibility, program partnerships, the number of persons or households served, and how well the program leverages other resources performance, and budget and grant management.

b. Threshold criteria. IFA will identify threshold criteria that all programs ~~must~~ are required to meet in order to be eligible.

c. Activities eligible during funding cycle. Each competition round will specify which of the total eligible program activities will be supported ~~during that competition round.~~

41.7(2) If an application contains an activity determined to be ineligible, at IFA's discretion, the ineligible activity may be deleted from the application ~~or referred to another funding source or the application may be disqualified.~~

41.7(3) ~~IFA reserves the right to negotiate directly with the applicant to determine the priority of funding requested within the application.~~

41.7(4) 41.7(3) Before making final funding recommendations, IFA staff may review applications with other state agencies or other groups with expertise in the area of serving homeless persons ~~before making final funding recommendations.~~ Consultation with other agencies is intended to avoid duplication and promote maximum utilization of funding sources.

41.7(5) 41.7(4) Based on the review process, IFA may revise the overall funding request by activity or funding level and recommend a final funding figure to the IFA board of directors for approval.

41.7(6) ~~IFA reserves the right to negotiate all aspects of a funding request prior to final approval.~~

41.7(7) 41.7(5) IFA shall establish the period of funding for each competition.

ITEM 10. Amend rule 265—41.8(16) as follows:

265—41.8(16) Matching requirement contributions. ~~Subrecipients may be required to provide a match for SAF program funds. The rules of each competition will specify what, if any, match is required.~~ IFA reserves the right to designate a portion or all of SAF funds to be used toward the matching contributions requirement imposed by HUD for ESG funds received by the state of Iowa. If SAF funds are designated as ESG matching contributions, they may not also be available to meet matching requirements of other grant moneys received by recipients. Recipients will be informed if SAF funds have been used toward the ESG matching requirement and will be responsible for ensuring compliance with the matching requirements of other grant programs.

ITEM 11. Amend rule 265—41.9(16) as follows:

265—41.9(16) Funding awards.

~~41.9(1) Awards on behalf of multiple applicants. Authorization. A city or county government or nonprofit organization may be designated, at the discretion of IFA, to administer contracts for multiple applicants within a prescribed geographic area. The IFA board of directors authorizes funding awards during each application cycle.~~

~~41.9(2) Right to negotiate. IFA reserves the right to negotiate the amount of the funding award, the scale of the project, and alternative methods for completing the project.~~

~~41.9(3) Special purpose awards. IFA may, at its discretion, award any remaining funds as it sees fit within the SAF program regulations make funding awards for evaluation of services for the homeless, including the implementation of the HMIS, apart from the application procedures and application review process for other activities.~~

ITEM 12. Amend rule 265—41.10(16) as follows:

265—41.10(16) Restrictions Requirements placed on recipients and subrecipients.

~~41.10(1) Use as provider of homeless services Building use. Any building for which SAF program funds are used must be maintained as a provider of homeless services for not less than a three-year period or for not less than a ten-year period if the funding amounts are used for major rehabilitation or conversion of the building. If SAF program funds are used for operating and maintenance costs, the recipient must is required to continue to provide homeless services for at least one year. In calculating the applicable time period, the beginning dates of the three- and ten-year periods are determined as follows:~~

~~a. In the case of a building that was not operated as a provider of services for the homeless before receipt of SAF program funds, on the date of initial occupancy as a provider of services to the homeless.~~

~~b. In the case of a building that was operated as a provider of services to the homeless before the receipt of SAF program funds, on the date that those funds are first obligated to the homeless service provider.~~

~~41.10(2) Building standards. Any building for which SAF program funds are used for renovation, conversion, rehabilitation, or major rehabilitation must comply with all state and local building codes and ordinances and any other applicable legal requirements.~~

~~41.10(3) Participation by homeless individuals and families. To the maximum extent possible, SAF program subrecipients must recipients are required to involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted with SAF funds, in providing services assisted with SAF funds, and in providing services for occupants of facilities assisted with SAF funds.~~

~~41.10(4) Termination of assistance and grievance procedure. Subrecipients must Recipients shall establish and implement a formal process to terminate assistance to individuals or families who violate program requirements. This process must shall include a hearing that provides individuals a full opportunity to address issues of noncompliance.~~

~~41.10(5) Data reporting system. Recipients and subrecipients shall participate in the HUD-approved Homeless Management Information System (HMIS) adopted by IFA as required in the executed contract, unless the recipient or subrecipient qualifies as a domestic violence shelter, in which case the recipient~~

~~or subrecipient~~ shall participate in required data collection and reporting activities using a comparable database as defined by HUD (~~HUD HMIS Data Standards, Revised Notice March 2011~~).

~~41.10(6) Ensuring confidentiality. Subrecipients must~~ Recipients shall develop and implement procedures to guarantee the confidentiality of records pertaining to any individual to whom family violence prevention or treatment services are provided. In addition, the address or location of any family violence shelter shall not be disclosed to any person except with written authorization of the shelter director.

~~41.10(7) Requirements for religious organizations. Recipients shall not engage in religious proselytizing or counseling using SAF funds, nor require attendance at religious services as a requirement or condition to receive assistance with SAF funds, nor limit services or give preference to persons seeking assistance with SAF funds on the basis of religion.~~

~~41.10(8) Prohibition against involuntary family separation. If a shelter provides services to families with children under the age of 18, the age of a child under the age of 18 shall not be used as a basis for denying any family's admission to shelter.~~

~~41.10(9) Lead-based paint. Recipients shall follow the federal rules for lead-based paint, including the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations in 24 CFR Part 35, Subparts A, B, H, J, K, M, and R, which apply to all shelters occupied by program participants.~~

~~41.10(10) Habitability standards. Recipients shall follow the federal rules for habitability, ensuring that shelters funded with SAF adhere to minimum habitability standards for being safe, sanitary, and adequately maintained, according to the regulations at CFR Part 576.403. Standards include considerations for the following: (1) structure and materials, (2) access, (3) space and security, (4) interior air quality, (5) water supply, (6) sanitary facilities, (7) thermal environment, (8) illumination and electricity, (9) food preparation, (10) sanitary conditions, and (11) fire safety.~~

~~41.10(11) Other requirements. IFA may, at its discretion, impose additional requirements on recipients, which will be described in the request for applications, the grant contract, or other guidance materials issued from time to time.~~

ITEM 13. Amend rule 265—41.11(16) as follows:

265—41.11(16) Compliance with applicable federal and state laws and regulations. All recipients ~~and subrecipients must~~ shall comply with the Iowa Code ~~governing with respect to~~ activities performed under this program. Use of SAF program funds ~~must~~ shall comply with the following additional requirements.

~~41.11(1) Nondiscrimination and equal opportunity. All recipients and subrecipients must~~ shall comply with the following:

a. The requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. Sections 3601-19 and implementing regulations; Executive Order 11063 and implementing regulations at 24 CFR Part 107 (June 1, 1999); and Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2002d) and implementing regulations at 24 CFR Part 1 (June 1, 1999).

b. Affirmative action requirements as implemented with Executive Orders 11625, 12432, and 12138 which require that every effort be made to solicit the participation of minority and women business enterprises (MBE/WBE) in governmental projects.

c. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. Sections 6101-07).

d. The prohibitions against discrimination against disabled individuals under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

~~41.11(2) Auditing. Review of financial statements. All recipients and subrecipients must~~ comply with auditing requirements as outlined in the Single Audit Act of 1996 and the implementing regulations found in OMB Circular A-133. All recipients shall obtain from an independent certified public accountant an annual audit or an annual independent review of the agency's financial statements.

~~41.11(3) Conflict of interest. No person who exercises or has exercised any functions or responsibilities with respect to activities assisted under the SAF program, or who is in a position to~~

participate in a decision-making process or gain inside information with regard to activities assisted under the program, may obtain a financial interest or benefit from an assisted activity; have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity; or have a financial interest in the proceeds derived from an assisted activity, either for the person or for those with whom the person has immediate family or business ties, during the person's tenure or during the one-year period following the person's tenure. Persons covered shall include any person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient.

ITEM 14. Amend rule 265—41.12(16) as follows:

265—41.12(16) Administration.

41.12(1) Contracts. Upon selection of an application for funding, IFA will ~~either initiate a contract or authorize a recipient to initiate a contract on IFA's behalf.~~ If a local city or county government or a nonprofit organization is designated as the recipient, the subrecipients Recipients shall remain responsible for adherence to the requirements of the SAF program rules. These rules and applicable federal and state laws and regulations ~~become~~ shall be deemed to be part of the contract. Certain activities may require that permits or clearances be obtained from other state agencies before the start of the project. Funding awards may be conditioned upon the timely completion of these requirements.

41.12(2) Record keeping and retention. Financial records, supporting documents, statistical records, and all other records pertinent to the funded program shall be retained by the recipient and ~~the subrecipient.~~ ~~Private, nonprofit subrecipients covered through an SAF program contract from a local city or county government or nonprofit organization are responsible for ensuring that pertinent records of their SAF program funds be made available to the administering city or county or nonprofit organization and to IFA upon request.~~ Proper record retention ~~must~~ shall be in accordance with the following:

a. Records for any assisted activity shall be retained for five years after the end of the grant period and, if applicable, until audit procedures are completed and accepted by IFA.

b. Representatives of the state auditor's office and IFA shall have access to all books, accounts, documents, records, and other property belonging to or in use by a recipient ~~or a subrecipient~~ pertaining to the receipt of assistance under these rules.

41.12(3) Reporting requirements. ~~Recipients and subrecipients~~ shall submit reports to IFA as prescribed in the contract. Reports include:

a. HMIS data reports. All recipients ~~and subrecipients~~ of SAF program funds are required to submit regular reports on clients served using the current HMIS reporting process as prescribed by IFA unless a recipient ~~or subrecipient~~ qualifies as a domestic violence shelter, in which case the recipient ~~or subrecipient~~ must shall submit reports using a comparable database. A comparable database must collect client-level data over time and generate unduplicated aggregate reports based on that data.

b. Requests for funds. ~~Recipients and subrecipients~~ must shall submit requests for funds during the contract year at intervals and using forms as prescribed by IFA. IFA may perform any review or field inspections it deems necessary to ensure program compliance, including review of recipient ~~and subrecipient~~ records and reports. When problems of compliance are noted, IFA may require remedial actions to be taken. Failure to respond to notifications of need for remedial action may result in the remedies for noncompliance set forth in subrule 41.12(5).

41.12(4) Amendments to contracts. ~~Contracts may be amended on an individual basis in emergency situations.~~ Any request to amend a contract ~~must~~ shall be submitted in writing to IFA. IFA will determine if the request to amend is justified based on the material presented in the letter of request. No amendment is valid until approved in writing by IFA.

41.12(5) Remedies for noncompliance. At any time, IFA may, for cause, find that a recipient ~~or subrecipient~~ is not in compliance with the requirements under this program. Reasons for a finding of noncompliance include, but are not limited to, the recipient's ~~or subrecipient's~~ use of program funds for activities not described in its application, the recipient's ~~or subrecipient's~~ failure to complete approved activities in a timely manner, the recipient's ~~or subrecipient's~~ failure to comply with any applicable state or federal rules or regulations, or the recipient's ~~or subrecipient's~~ lack of continuing capacity to carry

out the approved program in a timely manner. At its discretion, IFA may employ any of the following remedies for noncompliance:

- a.* Issue a warning letter stating that continued failure to comply with program requirements within a stated period of time will result in a more serious action.
- b.* Condition a future award.
- c.* Direct the recipient ~~or subrecipient~~ to stop incurring costs with grant funds.
- d.* Require that some or all of the awarded funds be remitted to the state.
- e.* Reduce the level of funds the recipient ~~or subrecipient~~ would otherwise be entitled to receive.
- f.* Elect not to provide future award funds to the recipient ~~or subrecipient~~ until appropriate actions are taken to ensure compliance.
- g.* Prohibit a future award of funds.

ITEM 15. Amend **265—Chapter 41**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 16.5(1)“r” and ~~2010 Iowa Acts, Senate File 2088, division XXII~~ 16.41.